



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the application of:

APPLICANT :Allen J. Klein ) ART UNIT: 1772

SERIAL NO.: 09/540,941 ) EXAMINER: Ahmad Nasser

FILED : 03/31/2000 )

THE HONORABLE COMMISSIONER OF PATENTS AND TRADEMARKS

Washington, DC 20231

Sir:



**APPLICANT'S INITIAL APPEAL BRIEF**

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**APPLICANT'S INITIAL APPEAL BRIEF**

**1. REAL PARTY IN INTEREST**

Applicant, Allen J. Klein, is the real party in interest in this appeal

**2. RELATED APPEALS AND INTERFERENCES**

There are no related appeals or interferences known to applicant which will directly affect or be directly affected by or have a bearing on the Board's decision in the instant appeal.

**3. STATUS OF CLAIMS**

Claims 1-29 have been presented and all claims 1-29 stand rejected.

**4. STATUS OF AMENDMENTS**

No amendments have been filed subsequent to the final rejection.

**5. SUMMARY OF THE INVENTION**

The invention is a gift wrapping system for wrapping presents and is a sheet member made from typical gift wrap material such as paper, cloth, cellophane, foil, polymer film, etc., page 7, lines 2-8. The lower surface, that surface that faces the package or item to be wrapped, has an adhesive thereon, page 7, lines 10-11. The adhesive is a special mid-term adhesive that has properties wherein the adhesive remains removable for an initial period of at least about 30 days and upon expiration of this initial period, becomes non-removable, page 7, lines 10-11, page 8, lines 5-10. The adhesive is

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disposed on this lower surface such that the adhesive leaves macroscopic regions of discontinuity in a regular and repeating pattern, page 7, lines 12-18, figures 1-7. The pattern can include a striped pattern, figure 2, a crisscross pattern, figure 3, a checkered pattern, figure 4, a scallop pattern, figures 1 and 6, and a reverse scallop pattern, figure 7. A protective peel strip can be used to cover the adhesive prior to use or the upper surface of the sheet member can have a nonstick coating thereon to protect the adhesive whenever the sheet member is rolled up as is typical of gift wrapping paper, page 8, lines 11-17. The adhesive is an acrylic copolymer and has a peel strength of at least about 0.5 pli and no greater than about 2.5 pli with the preferred peel strength being about 1.4, in order to achieve the mid-term removability page 7, line 19 - page 8, line 10.

## **6. ISSUES ON APPEAL**

The issues on appeal are whether claims 1-2 and 4-10 are unpatentable under 35 U.S.C. 102(b) over Boyd (6,010,724), and whether claims 1-29 are unpatentable under 35 U.S.C. 103(a) over Boyd (6,010,724) in view of patent 5,806,181.

## **7. ARGUMENTS**

- (i): 'None
- (ii): None
- (iii):

Applicant invented his device to eliminate the need to use tape for wrapping presents and other items by using an adhesive on the lower, present contacting surface of the wrapping sheet. In order to achieve a workable system applicant needed an adhesive that would allow repositioning of the wrapping sheet during the wrapping process so that a good fit of wrapping sheet to present could be achieved. Accordingly, applicant needed an adhesive that has a sufficiently low peel strength that allows for repositioning of the wrapping system for a sufficient amount of time (greater than the typical 3 seconds or so of a relatively high peel strength self-adhesive postage stamp, which is termed short-term removable) even after the adhesive has been exposed and has made contact with the

present. However, applicant was faced with the additional problem of not having a peel strength that is too low. A sheet member that has a peel strength that is too low will allow repositioning as needed, yet will not provide sufficient hold, especially around corners and other complex surfaces, such a low peel strength is said to be long-term removable. Accordingly, applicant was faced with a need for a strong adhesive that held properly once the wrapping job was properly finished yet not to strong an adhesive so that the wrapping job could be properly finished. In order to address the yin and yang of the situation, Applicant devised a mid-term adhesive that gave for some period of time in order to allow repositioning, yet after the expiration of a set period of time, held fast in order to keep the present properly wrapped, for several months if need be. Accordingly, the adhesive is removable neither only short term, nor long term, the adhesive is mid-term removable

The prior art lacks such a mid-term removable adhesive. The citation of Boyd et al., fails to show a mid-term adhesive or otherwise one that has a peel strength between 0.5 pli and 2.5 pli. The only discussion of the adhesive in the Boyd invention is that the adhesive can be selected from the group of acrylic with latex rubber, natural latex, acrylic, synthetic adhesive and latex rubber, column 3, lines 1-3, column 4, line 66-column 5 line 3, and that the adhesive can be any adhesive that creates a seal that does not leave a substantial residue and that the adhesive is preferably a weak pressure sensitive adhesive such as that used on “Post-It Notes” sold by 3M. Post-It Notes have a very weak peel strength (much less than 0.5 pli) and are long-term removable, they never become non-removable.

The Examiner argues that the adhesive of Boyd and the adhesive claimed by applicant are both acrylic based and therefore would exhibit the same properties. This is just no so. The fact that two adhesives are acrylic based does not make them equivalents any more than having two salsas that are chili based make such salsas equivalent. A salsa having a poblano chili pepper (low Scoville heat) base would hardly pass notice to the

uninitiated while a salsa that is habanero chili pepper (high Scoville heat) based will wake up even the most iron of stomachs. Even though both salsas are chili based, each exhibits vastly different properties and the same is true of two acrylic based adhesives, one can and does exhibit vastly different properties relative to the other. The only evidence we have of the nature of the Boyd adhesive is that it is to leave little, if any residue, is a weak pressure sensitive adhesive similar to that used on Post-It Notes and is used as part of a gum wrapper. Post-It Notes are very weak and the adhesive will not hold a wrapped present, hence the term “weak pressure sensitive adhesive.” Additionally, no one wants to do battle just to retrieve a stick of gum from a wrapper, accordingly common sense dictates that a very weak adhesive is used in order to allow orderly access to the gum. As the gum may sit on the shelf for months at a time, the adhesive will be long term removable in order to provide the same orderly access to the gum, irrespective of when the gum is actually purchased. Applicant does not claim a very weak adhesive, rather a mid-term removable adhesive having a peel strength between about 0.5 pli and about 2.5 pli. Boyd neither teaches nor suggests such an adhesive.

To respond to the Examiner’s argument in his final rejection that applicant’s claimed time of at least 30 days includes infinity is not correct. Applicant claims an initial period of time of at least 30 days during which time the wrapping sheet is removable and upon expiration of this initial period, the wrapping sheet becomes non-removable. Clearly, the claim calls for an expiration of the initial period in order for the adhesive to transform to a different state (non-removable) and this expiration dictates a finite time and away from infinity.

(iv):

In response to the examiner’s rejection of claims 1-10 and 16-25 and then 11-15 and 26-29 under 35 U.S.C. 103(a) over Boyd (6,010,724) in view of Hill (5,806,181), Applicant notes that in the Examiner’s PTO-892 accompanying his 06/04/2003, Office Action, the Hill patent is designated number 5,866,181. However, in the body of this

Office Action, the examiner cites to patent number 5,806,181, entitled *Contact Carriers (Tiles) for Populating Large Substrates with Spring Contacts*. In his final Office Action, dated 01/21/2004, the Examiner does bring question to Applicant's arguments about the *Contact Carriers* patent and notes that patent 5,866,181, yet makes the formal rejection of the claims in reference back mode to the prior Office Action which had the *Contact Carriers* cite, U.S patent 5,806,181. While applicant may believe he knows what the Examiner meant in his Office Actions, Applicant must respond to arguments in the manner they are stated not in the manner that they are meant, especially as this is not a first such error.

Accordingly, the cited 5,806,181 patent provides none of the support for the position advanced by the Examiner to combine this patent with the Boyd reference in order to arrive at Applicant's claims 1-129.

Accordingly, Applicant respectfully requests that the determination by the Examiner that claims 1-29 are not patentable for the reasons given by the Examiner be reversed in total.

## APPENDIX

### **Claim 1.**

A wrapping system comprising:

a sheet member having an upper surface and a lower surface; and  
a mid-term removable adhesive disposed on the lower surface, wherein the properties of the adhesive are such that the adhesive remains removable for an initial period of at least about 30 days and becomes non-removable after the expiration of the initial period.

### **Claim 2.**

The wrapping system as in claim 1 wherein the adhesive is an acrylic copolymer.

### **Claim 3.**

The wrapping system as in claim 1 further comprising a peel strip covering the adhesive.

### **Claim 4.**

The wrapping system as in claim 1 further comprising a nonstick material disposed on the upper surface.

### **Claim 5.**

The wrapping system as in claim 1 wherein the sheet member is made from a material chosen from the group consisting of paper, cloth, cellophane, foil, polymer film or combinations thereof.

### **Claim 6.**

The wrapping system as in claim 1 wherein the adhesive has a peel strength of at least about 0.5 pli.

**Claim 7.**

The wrapping system as in claim 1 wherein the adhesive has a peel strength no greater than about 2.5 pli.

**Claim 8.**

The wrapping system as in claim 1 wherein the adhesive has a peel strength of about 1.4 pli.

**Claim 9.**

The wrapping system as in claim 1 wherein the adhesive has a peel strength of between about 0.5 pli and about 2.5 pli.

**Claim 10.**

The wrapping system as in claim 1 wherein the adhesive has a striped pattern.

**Claim 11.**

The wrapping system as in claim 1 wherein the adhesive has a crisscross pattern.

**Claim 12.**

The wrapping system as in claim 1 wherein the adhesive has a checkered pattern.

**Claim 13.**

The wrapping system as in claim 1 wherein the adhesive has a scallop pattern.

**Claim 14.**

The wrapping system as in claim 1 wherein the adhesive has a reverse scallop pattern.

**Claim 15.**

The wrapping system as in claim 1 wherein the adhesive is disposed on the lower surface such that the adhesive leaves uniformly dispersed discontinuities.

**Claim 16.**

A wrapping system comprising:

a sheet member having an upper surface and a lower surface;

an adhesive disposed on the lower surface such that the adhesive leaves macroscopic regions of adhesive discontinuity in a regular and repeating pattern; and

wherein the sheet member is used to wrap an object including an object that has corners and 90 degree edges and wherein the adhesive allows repositioning of the sheet member for a period of time in excess of at least one day when wrapping the object yet holds the sheet member firmly on the object at the conclusion of the wrapping process.

**Claim 17.**

The wrapping system as in claim 16 wherein the adhesive is an acrylic copolymer.

**Claim 18.**

The wrapping system as in claim 16 further comprising a peel strip covering the adhesive.

**Claim 19.**

The wrapping system as in claim 16 further comprising a nonstick material disposed on the upper surface.

**Claim 20.**

The wrapping system as in claim 16 wherein the sheet member is made from a material chosen from the group consisting of paper, cloth, cellophane, foil, polymer film or combinations thereof.

**Claim 21.**

The wrapping system as in claim 16 wherein the adhesive has a peel strength of at least about 0.5 pli.

**Claim 22.**

The wrapping system as in claim 16 wherein the adhesive has a peel strength no greater than about 2.5 pli.

**Claim 23.**

The wrapping system as in claim 16 wherein the adhesive has a peel strength of about 1.4 pli.

**Claim 24.**

The wrapping system as in claim 16 wherein the adhesive has a peel strength of between about 0.5 pli and about 2.5 pli.

**Claim 25.**

The wrapping system as in claim 16 wherein the pattern of the adhesive is a striped pattern.

**Claim 26.**

The wrapping system as in claim 16 wherein the pattern of the adhesive is a crisscross pattern.

**Claim 27.**

The wrapping system as in claim 16 wherein the pattern of the adhesive is a checkered pattern.

**Claim 28.**

The wrapping system as in claim 16 wherein the pattern of the adhesive is a scallop pattern.

**Claim 29.**

The wrapping system as in claim 16 wherein the pattern of the adhesive is a reverse scallop pattern.

This Appeal Brief and the accompanying fees being respectfully submitted this 1st day of September, 2004.

Respectfully submitted,



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**CERTIFICATE OF MAILING**

I HEREBY CERTIFY that the foregoing was deposited with the United States Postal Service, First Class Postage prepaid, addressed to the Commissioner of Patents and Trademarks, this 1st day of September, 2004.



Peter Loffler